

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Chairman;  
Tony Hammond, Vice Chairman;  
Mark Acton; and  
Nanci E. Langley

Competitive Product Prices  
Parcel Select Contracts  
Parcel Select Contract 24

Docket No. MC2018-13

Competitive Product Prices  
Parcel Select Contract 24 (MC2018-13)  
Negotiated Service Agreements

Docket No. CP2018-26

ORDER CONDITIONALLY APPROVING  
CONTINUATION OF PARCEL SELECT CONTRACT 24

(Issued June 29, 2018)

I. INTRODUCTION

For the reasons discussed below, the Commission conditionally approves the continuation of this contract until September 30, 2018.

II. BACKGROUND

On October 31, 2017, the Commission conditionally approved Parcel Select Contract 24 until June 30, 2018, to provide time to gather additional data and explore

the reasonableness of the assumptions underlying the model.<sup>1</sup> Order No. 4196 stated that prior to that expiration date the Commission would determine whether to approve the continuation of the contract. Order No. 4196 at 7. The Commission also required the Postal Service to file quarterly reports within 30 days of the completion of each quarter of the fiscal year. *Id.*

The Postal Service filed the required quarterly reports.<sup>2</sup> Three Chairman's Information Requests were issued to clarify the quarterly reports.<sup>3</sup> The Postal Service timely filed responses to CHIR No. 2 and CHIR No. 3.<sup>4</sup> The Postal Service timely filed a partial response to CHIR No. 4 when it was due on June 19, 2018, but did not provide a response to the outstanding questions until June 25, 2018.<sup>5</sup> The Postal Service also filed a motion for late acceptance of its responses to the remaining questions.<sup>6</sup>

The Commission requested public comments on the continuation of Parcel Select Contract 24 on June 1, 2018.<sup>7</sup> The Commission extended the comment deadline

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<sup>1</sup> Order Conditionally Adding Parcel Select Contract 24 to the Competitive Product List, October 31, 2017, at 8 (Order No. 4196).

<sup>2</sup> First Quarterly Report of United States Postal Service, in Response to Order No. 4196, Filed Under Seal, February 9, 2018; Second Quarterly Report of United States Postal Service, in Response to Order No. 4196, Filed Under Seal, April 30, 2018. See also Order Granting Motion for Extension of Time, January 31, 2018 (Order No. 4396).

<sup>3</sup> Chairman's Information Request No. 2 and Notice of Filing Under Seal, April 17, 2018 (CHIR No. 2); Chairman's Information Request No. 3 and Notice of Filing Under Seal, May 9, 2018 (CHIR No. 3); Chairman's Information Request No. 4 and Notice of Filing Under Seal, June 12, 2018 (CHIR No. 4). See also Public Representative Motion for Issuance of Information Request, June 5, 2018.

<sup>4</sup> See USPS Response to Chairman's Information Request No. 2, Filed Under Seal, April 24, 2018 (Response to CHIR No. 2); USPS Response to Chairman's Information Request No. 3, Filed Under Seal, May 16, 2018 (Response to CHIR No. 3).

<sup>5</sup> See USPS Response to Chairman's Information Request No. 4, Filed Under Seal, June 19, 2018 (Partial Response to CHIR No. 4) (stating that responses to Questions 6, 8, 9, and 13 are forthcoming); USPS Responses to Chairman's Information Request No. 4, Questions 6, 8, 9, and 13, Filed Under Seal, June 25, 2018 (Response to Remaining Questions from CHIR No. 4).

<sup>6</sup> USPS Motion for Late Acceptance of Responses to Chairman's Information Request No. 4, Questions 6, 8, 9, and 13, June 25, 2018 (Motion for Late Acceptance).

<sup>7</sup> Procedural Order, June 1, 2018 (Order No. 4629) (setting a comment deadline of June 15, 2018).

twice to give commenters time to consider the Postal Service's responses to the Chairman's Information Requests.<sup>8</sup>

### III. COMMENTS

The Public Representative filed comments on June 27, 2018.<sup>9</sup> No other interested person filed comments. The Public Representative supports continuation of the contract. PR Comments at 2. He states that the quarterly reports and responses to the Chairman's Information Requests have ameliorated his original concerns regarding the reliability of the cost model. *Id.* He notes that the Postal Service has provided a detailed model for estimating "Hub delivery costs" based on quarterly data, permitting the model to reflect seasonal variability in volume. *Id.* He also notes that the data remain somewhat volatile, but that increasing delivery density is improving cost coverage. *Id.* at 2-3.

The Public Representative states that he is confident that the agreement will continue to cover its costs, but notes that key to this evaluation were supplementary workpapers filed with the Response to Remaining Questions from CHIR No. 4 that detailed how volume, revenue, and cost data were developed. *See id.* at 3. He recommends that the Commission continue to require quarterly reports, including updated supplementary workpapers. *Id.*

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<sup>8</sup> Order Granting in Part Motion for Information Request and Extending Comment Deadline, June 13, 2018 (Order No. 4641) (extending comment deadline to June 22, 2018); Order Granting in Part Motion to Extend Comment Deadline, June 22, 2018 (Order No. 4669) (extending comment deadline to two business days after the filing of the Response to Remaining Questions from CHIR No.4, or June 27, 2018, whichever occurred earlier).

<sup>9</sup> Public Representative Comments on Continuation of Parcel Select Contract 24, June 27, 2018 (PR Comments).

#### IV. COMMISSION ANALYSIS

The Commission has reviewed the quarterly reports, the Request, the contract, the supporting data filed under seal, the Responses to the Chairman's Information Requests, and the Public Representative's comments.

*Cost considerations.* Because the Commission previously found Parcel Select Contract 24 to be a competitive product,<sup>10</sup> the Postal Service must show that the contract covers its attributable costs, does not cause market dominant products to subsidize competitive products as a whole, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3015.5 and 3015.7. As long as the revenue generated by the contract exceeds its attributable costs, the contract is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, if the contract covers its attributable costs, it is likely to comply with 39 U.S.C. § 3633(a).

Based on a review of the record, the Commission finds that the rates during the first year of the contract should continue to cover the contract's attributable costs. Also, the Commission finds that the contract should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Similarly, the Commission finds the contract is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3). See *also* 39 C.F.R. § 3015.7(c). Accordingly, the Commission's review of the contract indicates it is consistent with section 3633(a).

The Commission is concerned, however, with the reliability of the data submitted by the Postal Service. The Response to Remaining Questions from CHIR No. 4 included corrected copies of both quarterly reports and all of the source files. The

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<sup>10</sup> Order No. 4196 at 6.

originally-filed workpapers and source files include data errors and undefined and misleading terminology.<sup>11</sup> Should such extensive, contract-specific data issues continue, the Commission's ability to effectively review the contract in its Annual Compliance Determination (ACD) would be impaired.<sup>12</sup> To avoid this problem and provide time to review the data in this docket for ongoing reliability, the Commission approves the continuation of Parcel Select Contract 24 until September 30, 2018. Prior to that date, the Commission will determine whether to approve the continuation of the contract.

The Commission further notes that the untimely filing of the corrected workpapers almost jeopardized the Commission's ability to review the filings prior to the scheduled expiration of the contract on June 30, 2018. The Commission would not have been able to approve the continuation of the contract without the corrected data submitted with the Response to Remaining Questions from CHIR No. 4 on June 26, 2018.

To ensure that the Postal Service collects data sufficient for the Commission to complete this determination, the Commission directs the Postal Service to continue to report contract-specific volumes, costs, and workhours on a quarterly basis for the duration of this contract. The Postal Service is directed to provide an explanation of the cost model and all assumptions as part of this report. Additionally, these reports should include updated copies of, and links to, the supplementary workpapers filed in the Response to Remaining Questions from CHIR No. 4.<sup>13</sup> This reporting will allow the Commission to continue to confirm that the Postal Service's financial models contain

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<sup>11</sup> See, e.g., Partial Response to CHIR No. 4, question 3 (filed under seal) (resolving misleading terminology); *id.* question 4 (filed under seal) (explaining data errors); Response to Remaining Questions from CHIR No. 4, question 9 (filed under seal) (resolving significant discrepancies in submitted data, including the overall level of cost and revenue).

<sup>12</sup> As part of its ACD, the Commission reviews all extant Negotiated Service Agreements.

<sup>13</sup> The Postal Service should exclude from its reports extraneous worksheets, such as worksheets reporting on costs pertaining to services for which there was no volume. See, e.g., CHIR No. 4, question 10.

reasonable cost assumptions, and accurately account for all costs associated with Parcel Select Contract 24. Each report shall be filed in these dockets within 30 days of the completion of each quarter of the fiscal year, with the third report due July 30, 2018.

*Other considerations.* The Postal Service's Motion for Late Acceptance is granted.

If the instant contract is terminated prior to September 30, 2018, the Postal Service shall promptly file notice of such termination with the Commission in these dockets.

To assist the Commission in determining whether this product should continue past September 30, 2018, the Commission holds these dockets open, and directs that Max E. Schnidman continue to serve as Public Representative.

In conclusion, the Commission conditionally approves the continuation of Parcel Select Contract 24 until September 30, 2018.

## V. ORDERING PARAGRAPHS

*It is ordered:*

1. The Postal Service's Motion for Late Acceptance of Responses to Chairman's Information Request No. 4, Questions 6, 8, 9, and 13, filed June 25, 2018, is granted.
2. The Commission approves the continuation of Parcel Select Contract 24 until September 30, 2018.

3. The Postal Service shall continue to report contract-specific volumes, costs, and workhours on a quarterly basis, including an explanation of the cost model and all assumptions for the duration of this contract. Each report shall additionally include updates of supplementary workbooks as described in the body of this order. Each report shall be filed in these dockets within 30 days of the completion of each quarter of the fiscal year, with the third report due July 30, 2018.
4. The Postal Service shall promptly file notice of the instant contract's termination with the Commission in these dockets if the instant contract terminates prior to the scheduled expiration date.

By the Commission.

Stacy L. Ruble  
Secretary